A **SULAIMAN AHMAD & ORS v. JEMAIN MOHAMED & ORS**

HIGH COURT MALAYA, JOHOR BAHRU
SABIRIN JA'AFAR JC
[WRIT OF SUMMONS: 22NCVC-4-01-2015]
25 MAY 2016

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CIVIL PROCEDURE: *Striking out – Writ and statement of claim – Application for – Plaintiffs filed action against defendant claiming to be beneficiaries of land in deceased's estate – Plaintiffs sought declaration to declare transfer of land to defendant null and void – Failure to produce letters of administration or Sijil Faraid to establish their locus standi before commencement of action – Whether plaintiffs had locus standi to commence action against defendant – Whether striking out application a nullity*

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The 24 plaintiffs filed an action against the third defendant claiming to be the beneficiaries of the estate of the deceased, Jemain Mohamed 1/2 share and the estate of another deceased, Kechot Mohamed ('Kechot') 1/2 share registered in the name of Zabidah Sembob ('Zabidah') as trustee in respect of a land located in Johor Bahru ('the said land'). The 24 plaintiffs sought for a declaration that the registration of the said land in favour of the third defendant to be null and void on account of fraud in executing the transfer in Form 14A. The third defendant filed an application to strike out the 24 plaintiffs' writ and statement of claim on the grounds, *inter alia*, that the 24 plaintiffs had (i) failed to produce any letters of administration or any Sijil *Faraid* to establish their *locus standi*; and (ii) failed to produce any credible documentary evidence to establish their interests in the said land. The sole issue that arose for determination was whether the plaintiffs had *locus standi* to commence the present action without letters of administration or the Sijil *Faraid* and to seek declaration as stated in the statement of claim.

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Held (striking out plaintiffs' claim with costs):

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(1) At all material times, the 24 plaintiffs were not the legal personal representatives or the administrators/administratrices of the estates. This was affirmed by the plaintiffs' own admission in their affidavits. Following that admission, the plaintiffs had no *locus standi* to bring the present claim as no letters of administration or any similar legal documents had been obtained or extracted by all the 24 plaintiffs in respect of the half or the whole share of the said land. Based on the documents presented, the third defendant was now the sole registered proprietor and beneficial owner of the said land free from encumbrances. (paras 5, 6 & 7)

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(2) It was clear beyond dispute that the 24 plaintiffs have no interest in Zabidah's registered 1/2 share and were not the beneficiaries of this 1/2 share registered in Zabidah's name as trustee for Kechot. The transfer for valuable consideration of the 1/2 share of Zabidah as trustee was sanctioned by a High Court order. The court order cannot be set

aside. The 24 plaintiffs had not intervened in the High Court proceeding in which the order was granted. The execution of the transfer was also sanctioned by the High Court in accordance with the terms and conditions of the sale and purchase agreements executed between Jemain and Zabidah as vendor and the third defendant as purchaser. (paras 12, 13 & 14)

(3) The transfer of the said land was duly registered in favour of the third defendant free from encumbrances. The registration of the transfer of the said land in favour of the third defendant conferred indefeasibility of title on the third defendant under s. 340 of the National Land Code. The plaintiffs had failed to show any credible evidence of their registrable interest in the said land and had filed their suits without any grant of letters of administration of the estates of the deceased. Crucially, the 24 plaintiffs had not obtained the essential Sijil *Faraid* from the Syariah Court to show that they were beneficiaries of the estates of the two deceased persons. In the circumstances, the present action was a nullity as the plaintiffs had no *locus standi* to sue. (paras 15, 21 & 27)

Case(s) referred to:

Al Rashidy Kassim & Ors v. Rosman Roslan [2007] 3 CLJ 361 FC ***(dist)***
Badiaddin Mohd Mahidin & Anor v. Arab Malaysian Finance Bhd [1998] 2 CLJ 75 FC ***(refd)***
Dato' Ramesh Rajaratnam v. Datin Zaleha Abd Rahman & Ors [2014] 5 CLJ 669 CA ***(refd)***
Eng Mee Yong & Ors v. Letchumanan [1979] 1 LNS 18 PC ***(refd)***
Latifah Mat Zin v. Rosmawati Sharibun & Anor [2007] 5 CLJ 253 FC ***(refd)***
Maharin Nisha Hassan Mohamed v. Panir Selvam Chellamuthu & Anor [2005] 7 CLJ 289 HC ***(refd)***
Mohd Salim Said & Ors v. Tang Pheng Kee & Anor and Another Appeal [2014] 6 CLJ 485 CA ***(refd)***
Registrar of Titles, Johor, Johor Bahru v. Temenggong Securities Ltd & Anor [1977] AC 302 ***(refd)***
Rosman Roslan lwn. Kassim Hj Arshad & Yang Lain [2005] 2 CLJ 669 CA ***(refd)***
Teh Bee v. K Maruthamuthu [1977] 1 LNS 134 FC ***(refd)***
Temenggong Securities Ltd & Anor v. Registrar of Titles, Johore & Ors [1974] 1 LNS 175 FC ***(refd)***
Yeong Ah Chee v. Lee Chong Hai & Anor and Other Appeals [1994] 3 CLJ 20 SC ***(refd)***

Legislation referred to:

National Land Code, ss. 89, 340

For the plaintiffs - Alphone Manikam; M/s Malek & Assocs
For the 1st defendant - Ahmad Fadhli; DPP
For the 2nd defendant - Chok Chin You & JM Phang; M/s Yeo, Tan, Hoon & Tee
For the 3rd defendant - Wong Kim Fatt, Lawrence Chiong Sheng Fan, Wong Boon Chong & Siti Maznah Mariam; M/s Gulam & Wong
For the 4th & 5th defendants - Nurulhuda Nit; M/s Nurulhuda Nit & Co

Reported by Sandra Gabriel

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JUDGMENT

Sabirin Ja'afar JC:

Introduction

[1] This is an application of the third defendant to strike out the
B 24 plaintiffs' writ and the statement of claim herein dated 2 January 2015 which was supported by the affidavit of Mr Wang Hai affirmed on 13 August 2015. The plaintiff Encik Sulaiman bin Ahmad filed an affidavit in reply which was affirmed on 2 September 2015 for himself and for all the plaintiffs. None of the rest of the 23 plaintiffs has affirmed any affidavit to
C claim and prove that he or she is a beneficiary of the estate of the deceased or what is his or her share therein.

[2] At the outset, it should be noted that the plaintiffs have failed to name Zabidah binti Sembob the trustee of the said Kechot bin Mohamed as a defendant. The 24 plaintiffs are claiming a declaration that the registration
D of the Land Lot 59, GM 1975 (formerly GM 922), Mukim Pulai, Daerah Johor Bahru ("the said land"), in the name of the third defendant, Teguh Asiamas Sdn Bhd, to be null and void on account of the plaintiffs' alleged fraud committed by the first defendant in executing the transfer in Form 14A. The 24 plaintiffs have not yet obtained the relevant Sijil *Faraid* from the
E Syariah Court proving that they are the beneficiaries of the two estates.

Background Facts

[3] The 24 plaintiffs have filed the action against the third defendant claiming to be the beneficiaries or waris of the estate of (a) the deceased
F named Jemain bin Mohamed (with no identity card or death certificate) 1/2 share; and (b) the estate of another deceased named Kechot bin Mohamed 1/2 share registered in the name of Zabidah binti Sembob as trustee, without producing any letters of administration or any Sijil *Faraid* to establish their *locus standi*. The plaintiffs have also not produced any credible
G documentary evidence to establish who were the lawful wives of these two deceased and who were born out of the marriages with these respective wives and who their children were and who are the beneficiaries of the estates, especially in a case involving 24 plaintiffs who must clearly show by evidence who are the beneficiaries of which estate.

H **Issue**

[4] The only issue for this court to decide in this application is, without obtaining any letters of administration or the Sijil *Faraid*, whether the first plaintiff's claim that he and the other 23 plaintiffs are the grandchildren and beneficiaries of the estate of (a) Jemain bin Mohamed (deceased with no
I identity card or death certificate) and with no record of death in the Jabatan Pendaftaran Negara Wilayah Persekutuan Kuala Lumpur; and (b) of the estate of Kechot bin Mohamed (deceased whose trustee as registered in the title to the said land is Zabidah binti Sembob. In short, whether the plaintiffs have the *locus standi* to commence an action without letters of administration and to seek declaration as stated in the statement of claim.

Findings

These are the findings of this court:

[5] At all material times, the 24 plaintiffs are not the legal personal representatives or the administrators/administratrices of (a) the estate of Jemain bin Mohamed (deceased without identity card or death certificate) in respect of the half (1/2) share of the said land (measuring in ares 1.4923 hectares) held under GM 1975 (formerly GM 922), Lot 59, Mukim Pulai, Daerah Johor Bahru, Negeri Johor; and (b) of the estate of Kechot bin Mohamed (deceased) in respect of the other half (1/2) share of the said land of which Zabidah binti Sembob was registered proprietor as trustee. Significantly, by their own admission the 24 plaintiffs affirmed in para. 23(ii) of the affidavit of the first plaintiff affirmed on 2 September 2015 that they have no letters of administration:

> Sebagai waris-waris walaupun tiada Surat Pentadbir pada ketika ini, waris-waris akan memperolehinya pada masa akan datang.

[6] Following from that admission, the plaintiffs have no *locus standi* to bring this claim as no letters of administration or any similar legal documents had been obtained or extracted by all the 24 plaintiffs in respect of the half or the whole share of the said land.

[7] From the documents presented before this court, the third defendant is now the sole registered proprietor and beneficial owner of the said land, free from encumbrances.

Reasons For Decision

[8] The first plaintiff's own title search (exh. SM-5) shows that the said land was registered 1/2 share in the name of Jemain bin Mohamed, whose Identity Card No. 420916-01-5159 is shown in the writ and in the sale and purchase agreement dated 1 October 2013 and in the transfer. The other 1/2 share was registered in the name of Zabidah binti Sembob as trustee for Kechot bin Mohamed. Wang Hai's land title search on the said land also shows the same result. Relevant copies of the searches (exhs. SM-5 and WH-2), the sale and purchase agreement (exh. WH-2), the High Court order of 24 October 2013 (exh. WH-3) and the transfer (exh. SM-10) have shown ample proof to this fact.

[9] The third defendant had properly relied on his land title searches which show conclusively the two registered proprietors of the said land in 1/2 share each. Section 89 of the National Land Code reads as follows:

> 89 Conclusiveness of register documents of title
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> Every register document of title duly registered under this Chapter shall, subject to the provisions of this Act, be conclusive evidence:
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> (a) That title to the land described therein is vested in the person or body for the time being named therein as proprietor; and

A (b) Of the conditions, restrictions in interest and other provisions subject to which the land is for time being held by that person or body, so far as the same are required by any provision of this Act to be specified or referred to in that document.

[10] In the Federal Court case of *Teh Bee v. K Maruthamuthu* [1977] 1 LNS B 134; [1977] 2 MLJ 7, it was held at p. 9 (headnotes) that:

(2) the fact that the register document of title was in the name of the appellant was conclusive evidence that the title to the land was vested in the appellant;

(3) under the Torrens System the register is everything and it would be C wrong to allow an investigation as to the right of the person to appear upon the register holds the certificates.

[11] In the Privy Council case of *Eng Mee Yong & Ors v. Letchumanan* [1979] 1 LNS 18; [1979] 2 MLJ 212, Lord Diplock, in delivering the judgment of the Privy Council, held at p. 214, para. I, that:

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The Torrens System of land registration and conveyancing, as applied in Malaya by the National Land Code, has as one of its principal objects to give certainty to title to land and registrable interests in land. Since the instant case is concerned with title to the land itself Their Lordships will confine their remarks to this, though similar principles apply to other E registrable interests. By Section 340 the title of any person to land of which he is registered as proprietor is indefeasible, except in cases of fraud, forgery or illegality, and even in such cases a *bona fide* purchaser for value can safely deal with the registered proprietor and will acquire from him an indefeasible registered title.

F **[12]** I now address the 1/2 share of the said land registered in the name of Zabidah binti Sembob as trustee for Kechot bin Mohamed. It is clear beyond dispute that the 24 plaintiffs herein have no interest whatsoever in her registered 1/2 share and are not the waris or beneficiaries of this 1/2 share registered in her name as trustee for Kechot bin Mohamed. The transfer for valuable consideration of the 1/2 share on Zabidah binti Sembob as trustee G was sanctioned by the High Court order of 24 October 2013 on her application. This order is final and is relied upon by her and her co-owner and the third defendant for the sale and purchase of the said land for valuable consideration paid by the third defendant which is a *bona fide* purchaser. It should be noted that she as the trustee (exh. WH-3) is not a party in the H action herein.

[13] The abovesaid High Court order on 24 October 2013 cannot be set aside in the present action. The 24 plaintiffs had not intervened in the other High Court proceeding in which the order was granted in 2013 in the originating summons. Similar principles can be found in *Badiaddin Mohd* I *Mahidin & Anor v. Arab Malaysian Finance Bhd* [1998] 2 CLJ 75; [1998] 1 MLJ 393, at pp. 417-418 FC, and *Maharin Nisha Hassan Mohamed v. Panir Selvam Chellamuthu & Anor* [2005] 7 CLJ 289; [2005] 6 MLJ 572 at pp. 577-578 CA.

[14] It should be noted the execution of the transfer in Form 14A of the 1/2 share of the trustee Zabidah binti Sembob in the said land was with the sanction of the Johor Bahru High Court order dated 24 October 2013 in Saman Pemula No. 24NCVC-271-10/2013 (exh. WH-3). This is in accordance with the terms and conditions of the sale and purchase agreement dated 1 October 2013 (exh. WH-1) executed between the two registered proprietors Jemain bin Mohamed (NRIC No. 420916-01-5159) and Zabidah binti Sembob the trustee (NRIC No. 331231-01-8918) as vendors of the one part and Teguh Asiamas Sdn Bhd the third defendant as purchaser of the said land of the other part. In the sale and purchase agreement, the two vendors and the purchaser the third defendant were represented separately by their own solicitors (para. 7, affidavit of Wang Hai affirmed on 13 August 2015).

[15] The two vendors' signatures in the transfer of the said land were duly attested by their own advocate and solicitor Mohd Shujaa bin Halim, the second defendant. The transfer of the said land for valuable consideration (see official receipts in exh. WH-4) in favour of the third defendant was duly executed and attested (exh. SM-10). It was duly registered in favour of the third defendant on 18 May 2014, free from encumbrances (see exh. SM-5 and exh. WH-2). Registration of the transfer of the said land by the two transferors in favour of the third defendant on 18 May 2014 confers indefeasibility of title on the third defendant under s. 340 of the National Land Code. The 24 plaintiffs have failed to show by credible evidence what registrable interest they each had in each of the two 1/2 shares registered in the name of the transferors Zabidah binti Sembob as trustee and Jemain bin Mohamed after they had executed the transfer on completion of the sale sanctioned by the said High Court order on 24 October 2013.

[16] The third defendant had paid the full purchase price for the said land to the vendors' solicitors (see exh. WH-4). The said land had since been converted into cash which had been paid to the two vendors' solicitors. The two vendors Zabidah binti Sembob as trustee (1/2 share) have now no interest in the said land which they lawfully sold to the third defendant.

[17] In the present case the two vendors had received the purchase price through their solicitors from the third defendant as purchaser and the vendors had parted with their interest in the said land to Teguh Asiamas Sdn Bhd. The vendors had become its bare trustee before registration of the transfer. In Federal Court case of *Temenggong Securities Ltd & Anor v. Registrar of Titles, Johore & Ors* [1974] 1 LNS 175; [1974] 2 MLJ 45, Ong Hock Sim FJ said on p. 47:

> We are of the view that the vendors, having parted with their interest in the lands to the Appellants, have no interest in the land over which a valid caveat can be lodged … The vendors had done everything that was required of them to transfer the title and had thereby constituted themselves bare trustees for the Appellants and had no other or further interest in the Lands.

[18] The *Temenggong Securities* case was affirmed by the Privy Council in 1976 in *Registrar of Titles, Johor, Johor Bahru v. Temenggong Securities Ltd & Anor* [1977] AC 302. The principle in the *Temenggong Securities* case was applied by our Supreme Court in *Yeong Ah Chee v. Lee Chong Hai & Anor and Other Appeals* [1994] 3 CLJ 20; [1994] 2 MLJ 614, where it was held at p. 26 (CLJ); p. 624 (MLJ):

> It is an old well-settled rule of equity that under a valid contract for the sale of land, the beneficial ownership of the land passes to the purchaser who becomes the equitable owners, the vendor having a right to the purchase money for which the he has a lien on the land. Please see *Lysaght v. Edwards* and this case was cited with approval very often in our court, eg, by the Federal Court in *Inter-Continental Mining Co Sdn Bhd v. Societe des Etains de Bayas Tudjuh* and *Temenggong Securities Ltd & Anor v. Registrar of Titles, Johore & Ors*. When the full purchase price is paid, the vendor becomes a bare trustee, ie, unqualified trustee for the purchaser.

[19] In the present application before me, it is clear that the 24 plaintiffs no longer have interest in the said land now registered in the name of the third defendant as proprietor.

[20] On the issue of *locus standi*, in *Rosman Roslan lwn. Kassim Hj Arshad & Yang Lain* [2005] 2 CLJ 669, the Court of Appeal held that the letters of administration must be obtained first before the filing of the action. Nik Hashim JCA said at p. 674:

> Jadi, surat kuasa tadbir adalah penting dan ia hendaklah diperoleh terlebih dahulu dari Mahkamah Sivil sebelum seseorang benefisiari hendak memulakan sesuatu tindakan untuk menuntut apa-apa kepentingan terhadap harta pusaka si mati. Jika tidak dia tidak mempunyai *locus standi* untuk membawa tindakan dalam mahkamah. Oleh kerana Responden-Responden tidak mempunyai surat kuasa tadbir bagi mentadbir harta pusaka si mati Hj Abu Bakar, maka mereka tidak berkompeten dan mempunyai *locus standi* untuk membawa tindakan ini. Dalam kes *Deraman & Ors v. Mek Yam* [1977] 1 MLJ 52, perayu-perayu telah membawa satu tindakan untuk menuntut bahawa mereka berhak kepada sebahagian tanah yang asalnya kepunyaan bapa mereka, dan mereka tidak mengambil surat tadbir untuk mentadbir harta pusaka bapa mereka. Mahkamah Persekutuan di dalam menolak rayuan oleh perayu-perayu telah memutuskan:
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> (3) ... the Appellant had not taken out representation to their father's estate and had no *locus standi* to institute the action.

[21] In the present case, it is not in dispute that the 24 plaintiffs filed their suit herein without any grant of letters of administration of the estates of the deceased. To my mind the action is a nullity as they have no *locus standi* to sue. The recent Court of Appeal case of *Dato' Ramesh Rajaratnam v. Datin Zaleha Abd Rahman & Ors* [2014] 5 CLJ 669; [2014] 6 MLJ 651 explains this point. It was held that the respondents who were the administrators of the

deceased estate but who had yet to extract the grant of letters of administration, had no *locus standi* to sue. In delivering the judgment of Court Appeal, Hamid Sultan JCA said at p. 672 (CLJ); p. 654 (MLJ):

> [2] The strict rule is that the letters of administration must be issued by the High Court to the administrator and/or administratrix before any action can be taken for the benefit of the estate (see *Janab's Key To Civil Procedure*, (5th Ed), pp. 143-144). Some limited exceptions are found in O. 15 r. 6a of the Rules of Court 2012 ('the RC'). In *Ang Hoi Yin v. Sim Sie Hau* [1969] 2 MLJ 3; [1968] 1 LNS 7, the Plaintiff's administratrix brought an action against the Defendant without having extracted the letters of administration even though it had been granted by the court. The Defendant entered a conditional appearance and applied to the court to set aside the writ on the ground that the Plaintiff had not acquired the *locus standi* yet. The court held that since the Plaintiff had not acquired the *locus standi* yet. The court held that since the Plaintiff had not extracted the grant of letters of administration, she had no power to sue as administratrix and therefore the suit was a nullity and must be set aside. The strict rule recently had been whittled down by the Federal Court to say if there are 'special circumstances' the administrator will have locus to proceed with the legal proceedings (see *Al Rashidy Bin Kassim & Ors v. Rosman bin Roslan* [2007] 4 MLJ 297; [2007] 3 CLJ 361). This is notwithstanding the strict provision of Section 39(1) of the Probate and Administration Act 1959 which states:
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> > 39(1) Where a person dies intestate his moveable and immovable property until administration is granted in respect thereof shall vest in the Corporation in the same manner and to the same extent as it vests in the Probate Judge in England.

[22] It was further discussed in the Federal Court case of *Al Rashidy Kassim & Ors v. Rosman Roslan* [2007] 3 CLJ 361; [2007] 4 MLJ 297, where it was held at p. 375 (CLJ); p. 307 (MLJ):

> [20] Thus, the Appellants have had to act in order to protect and preserve the estate of the deceased. Therefore, on the fact of this case, we find, there exist special circumstances for the beneficiaries to commence legal action against the Respondent *qua* beneficiaries for the purpose of protecting and preserving the asset of the estate. Quite apart from that we also hold that the beneficiaries in the present case have at least an equity in the estate of the deceased to entitle them to seek a declaratory judgment. Thus, on the above grounds are agree with the learned counsel for the Appellants that the Appellants in this case had *locus standi* to commence this action at least for the limited purpose of protecting and preserving the assets of the estate.

[23] Counsel for the plaintiffs, Mr Alphone Manikam vehemently argued his case based on *Al Rashidy* case but the *Al Rashidy* case can be distinguished from the present case, where the vendors sold the said land to the third defendant for valuable consideration received by them and sanctioned by the High Court order. In *Al Rashidy*, the High Court had found the first defendant had fraudulently transferred to himself the one-half undivided share of the

land of Hj Abu Bakar (deceased). The Federal Court held there were special circumstances to protect and preserve the asset of the estate before it was sold to a third party. In our present case, the said land had already been sold to and registered in the name of the third defendant under the sanction of the High Court order. The 24 plaintiffs in the present case have yet to prove they are the beneficiaries of the estates of the two deceased. They have no letters of administration or the Sijil *Faraid* which significantly was not considered in the *Al Rashidy* case.

[24] It is my finding in the present case, the 24 plaintiffs have wholly failed to discharge their burden to prove the special circumstances stated in the *Al Rashidy* case.

[25] Similarly, the 24 plaintiffs have failed to obtain a Sijil *Faraid* to show who are the beneficiaries and their respective shares in the estate of the deceased concerned. In the Federal Court case of *Latifah Mat Zin v. Rosmawati Sharibun & Anor* [2007] 5 CLJ 253; [2007] 5 MLJ 101, Abdul Hamid Mohamad FCJ (as he then was), said in para. [56], p. 282 (CLJ); p. 119 (MLJ):

> [56] In the case of letters of administration (again I am only referring to non-small estates), an application is made to the civil High Court for the grant of a letter of administration, and in case of an estate of a Muslim, the administrator will obtain a 'Sijil *Faraid*' from the Syariah Court which states who are the beneficiaries and their respective shares, in accordance with Islamic law. If the estate consists of immovable property, another application is made to the civil High Court for a vesting order. All that the civil High Court does in such an application is that, satisfied with all the procedural requirements, the civil High Courts makes a vesting order in accordance with the 'Sijil *Faraid*'. This second application is not necessary where the assets to be distributed are movable assets. However, the Administrator still requires a 'Sijil *Faraid*' for purpose of distribution.

[26] More recently, the Court of Appeal in *Mohd Salim Said & Ors v. Tang Pheng Kee & Anor and Another Appeal* [2014] 6 CLJ 485; [2014] 3 MLJ 504 made in headnotes (1) the same ruling on the requirement of Sijil *Faraid* at p. 505 reading as follows:

> (1) The determination of who were the beneficiaries of the deceased persons in the instant case was an Islamic law issue within the Syariah Court's jurisdiction. The *faraid* certificates stated the names of the deceased, their time of death, the beneficiaries and their entitlement. In addition to testifying that they were the beneficiaries under Sahid's, Mah's and Yam's estate, the Appellant had produced the death certificates of Mah and Yam and the *faraid* certificates issued by the Syariah Court in respect of Sahid and Mah. The certificates were the best evidence in proving the Appellants were the rightful beneficiaries of the deceased. The Syariah Court's order should have been accepted by the High Court (see paras 23-25).

[27] Therefore, based from the aforesaid reasoning I decide that the writ and statement of claim of the 24 plaintiffs be struck out with costs for the following reasons:

(i) the land title searches on the said land by the plaintiffs and the third defendant all show that the registered proprietors of the said land at all material times were the aforesaid vendors and transferors, ie, (a) Jemain bin Mohamed, the vendor of his 1/2 share *vide* sale and purchase agreement dated 1 October 2013 (exh. WH-1); and (b) Zabidah binti Sembob as trustee who sold her 1/2 share under the High Court order on 24 October 2013. The plaintiffs have failed to cite her as a defendant. Section 89 of the National Land Code is against the plaintiffs.

(ii) the full purchase price of RM11,243,925 for the said land had, pursuant to the said court order of 24 October 2013, been paid to the solicitors of these two vendors who had become the bare trustees of the said land for the third defendant at all material times. This court order is final and cannot be challenged here.

(iii) the third defendant is at all material times the *bona fide* purchaser of the said land for value and is the registered proprietor and beneficial owner of the said land since 18 May 2014. The 24 plaintiffs no longer have interest in the said land sold to and registered in the name of the third defendant as proprietor as from 18 May 2014.

(iv) the 24 plaintiffs have no *locus standi* to file their suit here. They have no letters of administration of the estate of the relevant deceased. They have failed to prove the special circumstances stated in the *Al Rashidy* case.

(v) the 24 plaintiffs have failed to prove by letters of administration or credible documentary evidence that they are the waris or beneficiaries of:

  (a) the estate of Jemain bin Mohamed (with no identity card or death certificate produced), and

  (b) the estate of Kechot bin Mohamed (deceased) on the 1/2 share in the name of Zabidah binti Sembob as trustee.

(vi) crucially, the 24 plaintiffs have not obtained the essential Sijil *Faraid* from the Syariah Court to show they are the beneficiaries of the estates of the above two deceased.

Conclusion

[28] It is for the above reasons that I agree with the submission of the third defendant's counsel Datuk Dr Wong Kim Fatt to strike out the plaintiffs' writ and statement of claim with costs of RM3,000.